

The Honorable Ronald B. Leighton

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA
Plaintiff,
v.
GLEN A. MOREHOUSE, EMMA J.
MOREHOUSE, RUSSELL BOLEN, CLARK
COUNTY, CEDAR CREEK PROPERTY
OWNERS ASSOCIATION, FIRST
INDEPENDENT BANK, TRANSAMERICA
INDUSTRIAL LOAN,
Defendants.

Civil No. 07-5698RBL

**[PROPOSED] ORDER OF
FORECLOSURE AND JUDICIAL
SALES**

The United States' Motion for Summary Judgment seeking an order of foreclosure and judicial sale was granted on June 15, 2009 and this Order of Foreclosure and Judicial Sales is entered pursuant to the provisions of 28 U.S.C. §§ 2001 and 2002 and 26 U.S.C. §§ 7402 and 7403. The Court hereby orders as follows:

1. Mr. Glen Morehouse is indebted to the United States of America ("United States") for unpaid

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1 assessed balances of federal income taxes for tax years 1987, 1988, 1989, 1990, 1991, 1992,
2 and 1993, plus interest and statutory additions accruing after the dates of assessment pursuant
3 to 26 U.S.C. §§ 6601, 6621 and 6622, and 28 U.S.C. § 1961(c) until paid. On June 15, 2009,
4 the Court entered judgment in favor of the United States and against Mr. Morehouse for his
5 federal income tax liabilities for tax years 1987, 1988, 1989, 1990, 1991, 1992, and 1993,
6 calculated through May 7, 2009, in the amount of \$517,295.58, plus such additional statutory
7 additions, including interest, as continue to accrue until paid in full.

- 8 2. The first parcel of real property upon which foreclosure is sought is a tract of real property
9 described as:

10 The South half of the East half of the South half of the Northwest quarter of the
11 Southwest quarter of Section 17, Township 5 North, Range 3 East of the
12 Willamette Meridian, Clark County, Washington and also together with a quarter
13 of the 1/76 undivided interest in that parcel known as the Northwest quarter of the
14 Northeast quarter of the Northwest quarter of Section 18, Township 4 North,
15 Range 3 East of the Willamette Meridian. TOGETHER WITH that certain road
16 easement as described under Auditor's File No. G 666033. SUBJECT TO
17 easements, restrictions, and road maintenance covenants of record.

18 ("Amboy Tract"). The second parcel of real property upon which foreclosure is sought is real
19 property located at 20816 NE 389th St., Amboy, WA ("Amboy Residence"). The Amboy
20 Residence is described as:

21 The East half of the Southwest quarter of the Northeast quarter of Section 20,
22 Township 5 North, Range 3 East of the Willamette Meridian, Clark County,
23 Washington. EXCEPT that portion lying within NE 389th Street.

24 The Amboy Tract and Amboy Residence are hereinafter referred to as the "subject
25 properties."

- 26 3. On June 15, 2009, the Court held that the United States holds valid liens in the amount of Mr.

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1 Morehouse's tax liabilities arising from the 1987, 1988, 1989, 1990, 1991, 1992, and 1993 tax
2 years on the Amboy Tract and Amboy Residence and ordered the foreclosure of these
3 properties.

4. The United States' federal tax liens against the subject properties are hereby foreclosed. The
5 United States Marshal for the District of Washington, his/her representative, or an Internal
6 Revenue Service Property Appraisal and Liquidation Specialist ("PALS") representative is
7 authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell
8 the subject properties, free and clear of the right, title and interest of all parties to this action
9 and any successors in interest or transferees of those parties. The United States may choose
10 either the United States Marshal or a PALS representative to carry out the sales under this
11 Order of Foreclosure and Judicial Sales and shall make the arrangements for any sales as set
12 forth in this Order. This Order of Foreclosure and Judicial Sales shall act as a special writ of
13 execution and no further orders or process from the Court shall be required.
14. The United States Marshal for the District of Washington, his/her representative, or a PALS
15 representative is authorized to have free access to the subject properties and to take all actions
16 necessary to preserve them including without limitation retaining a locksmith or other person
17 to change or install locks or other security devices on any parts thereof, until a deed thereto is
18 delivered to the ultimate purchaser(s).
19. 6. The terms and conditions of the sales of the subject properties are as follows:
20. a. Except as otherwise stated herein, the sales of the subject properties shall be by public
21 auction to the highest bidder, free and clear of all liens and interests.
22. b. The sales shall be subject to all laws, ordinances, and governmental regulations
23 (including building and zoning ordinances), affecting the premises, and easements and
24 restrictions of record, if any.
25. c. The sales shall be held at the courthouse of the county or city in which the subject
26 properties are located, on the subject properties's premises, or at any other place in

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1 accordance with the provisions of 28 U.S.C. §§ 2001 and 2002, at a date and time
2 announced by the United States Marshal, his/her representative, or a PALS
3 representative.

- 4 d. Notice of the sales shall be published once a week for at least four consecutive weeks
5 before the date fixed for the sale in at least one newspaper regularly issued and of
6 general circulation in Clark County, and, at the discretion of the Marshal, his/her
7 representative, or a PALS representative, by any other notice that it or its
8 representative may deem appropriate. **State law notice requirements for**
9 **foreclosures or execution sales do not apply to this sale under federal law.** The
10 notices of sales shall describe the subject properties and contain the material terms and
11 conditions of sales in this Order of Foreclosure and Judicial Sales.
- 12 e. The minimum bid for each sale will be set by the Internal Revenue Service. If the
13 minimum bid for each sale is not met or exceeded, the Marshal, his or her
14 representative, or a PALS representative may, without further permission of this
15 Court, and under the terms and conditions in this Order of Foreclosure and Judicial
16 Sales, hold a new public sale, if necessary, and reduce the minimum bid or sell to the
17 second highest bidder;
- 18 f. Bidders shall be required to DEPOSIT at the time of each sale with the Marshal,
19 his/her representative, or a PALS representative, a minimum of ten percent of the bid
20 with the deposit to be made by a certified or cashier's check payable to the United
21 States District Court for the District of Washington. Before being permitted to bid at
22 the sales, bidders shall display to the Marshal, his/her representative, or a PALS
23 representative satisfactory proof of compliance with this requirement.
- 24 g. The balance of the purchase prices of the Amboy Tract in excess of the deposit
25 tendered shall be paid to the Marshal or a PALS representative (whichever person is
26 conducting the sales) within twenty (20) days after the date the bid is accepted by a

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1 certified or cashier's check payable to the United States District Court for the District
2 of Washington. If the successful bidder fails to fulfill this requirement, the deposit
3 shall be forfeited and shall be applied in accordance with paragraph 14, below.

- 4 h. The balance of the purchase prices of the Amboy Residence in excess of the deposit
5 tendered shall be paid to the Marshal or a PALS representative (whichever person is
6 conducting the sales) within twenty (20) days after the date the bid is accepted by a
7 certified or cashier's check payable to the United States District Court for the District
8 of Washington. If the successful bidder fails to fulfill this requirement, the deposit
9 shall be forfeited and shall be applied in accordance with paragraph 15, below.
- 10 i. The sale of the subject properties shall not be final until confirmed by this Court. The
11 Marshal or a PALS representative shall file a report of each sale with the Court,
12 together with a proposed order of confirmation of sale, within 30 days from the date of
13 receipt of the balance of the purchase price.
- 14 j. Upon confirmation of each sale, the Marshal or PALS representative shall execute and
15 deliver a deed of judicial sale conveying each subject property to the purchaser.
- 16 k. Upon confirmation of the sales, the interests of, liens against, or claims to the subject
17 properties held or asserted by the United States and any other parties to this action or
18 any successors in interest or transferees of those parties shall be discharged and
19 extinguished. The sale is ordered pursuant to 28 U.S.C. § 2001. **Redemption rights**
20 **under state law shall not apply to this sale under federal law.**
- 21 l. Upon confirmation of each sale, the Office of the County Clerk, Clark County, shall
22 cause transfer of each subject property to be reflected upon that county's register of
23 title.
- 24 7. Until each subject property is sold, Mr. Glen Morehouse and Ms. Emma Morehouse-
25 Sands shall each take all reasonable steps necessary to preserve each subject property to
26 which they currently hold record title (including all buildings, improvements, fixtures and

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1 appurtenances thereon) including, without limitation, maintaining fire and casualty
2 insurance policies on the subject properties. They shall not commit waste against the
3 subject properties, nor shall they cause or permit anyone else to do so. They shall not do
4 anything that tends to reduce the value or marketability of the subject properties, nor shall
5 they cause or permit anyone else to do so. They shall not record any instruments, publish
6 any notice, or take any other action that may directly or indirectly tend to adversely affect
7 the value of the subject properties or that may tend to deter or discourage potential bidders
8 from participating in the public sales, nor shall they cause or permit anyone else to do so.
9 **Violation of this paragraph shall be deemed a contempt of court and punishable as**
10 **such.**

- 11 8. The sale of the Amboy Tract shall occur prior to the sale of the Amboy Residence, with
12 the sale of the Amboy Residence not to occur sooner than 30 days after the distribution of
13 proceeds arising from the sale of the Amboy Tract.
- 14 9. Ms. Emma Morehouse-Sands may bid at the auction of the Amboy Residence. If she
15 chooses to participate in the auction of the Amboy Residence, she may bid at full price,
16 and if she is successful in purchasing the Amboy Residence, her final purchase price shall
17 be reduced by one-third, after accounting for costs of sale, in satisfaction of her one-third
18 interest in the net proceeds of the sale of the Amboy Residence.
- 19 10. All persons occupying the Amboy Tract shall leave and vacate permanently each such
20 property no later than 30 days after entry of this Order, each taking with them his or her
21 personal property (but leaving all improvements, buildings, fixtures, and appurtenances)
22 when leaving and vacating. If any person fails or refuses to leave and vacate each subject
23 property by the time specified in this Order, the United States Marshal's Office or the
24 Sheriff of Clark County is authorized to take whatever action they deem appropriate to
25 remove such person or persons from the premises, whether or not the sale of such property
26 is being conducted by a PALS representative. If any person fails or refuses to remove his

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1 or her personal property from each subject property by the time specified herein, the
2 personal property remaining on each subject property thereafter is deemed forfeited and
3 abandoned, and the United States Marshal's Office or the PALS representative is
4 authorized and directed to remove and dispose of it in any manner they see fit, including
5 sale, in which case the proceeds of sale are to be applied first to the expenses of sale, and
6 then to the tax liabilities at issue herein.

- 7 11. All persons occupying the Amboy Residence shall leave and vacate permanently each
8 such property no later than 30 days prior to the scheduled sale of the Amboy Residence,
9 each taking with them his or her personal property (but leaving all improvements,
10 buildings, fixtures, and appurtenances) when leaving and vacating. If any person fails or
11 refuses to leave and vacate each subject property by the time specified in this Order, the
12 United States Marshal's Office or the Sheriff of Clark County is authorized to take
13 whatever action they deem appropriate to remove such person or persons from the
14 premises, whether or not the sale of such property is being conducted by a PALS
15 representative. If any person fails or refuses to remove his or her personal property from
16 each subject property by the time specified herein, the personal property remaining on
17 each subject property thereafter is deemed forfeited and abandoned, and the United States
18 Marshal's Office or the PALS representative is authorized and directed to remove and
19 dispose of it in any manner they see fit, including sale, in which case the proceeds of sale
20 are to be applied first to the expenses of sale, and then to the tax liabilities at issue herein.
21 12. Notwithstanding the terms of the immediately preceding paragraph, if, after the sale of
22 each subject property is confirmed by this Court, the subject property remains occupied, a
23 writ of assistance may, without further notice, be issued by the Clerk of Court pursuant to
24 Rule 70 of the Federal Rules of Civil Procedure to compel delivery of possession of the
25 subject property to the purchasers thereof.
26 13. Mr. Glen Morehouse and Ms. Emma Morehouse-Sands shall each file a forwarding

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1 address with the Court 30 days prior to the auction of the Amboy Residence, and serve a
 2 copy of the same upon the United States and all other parties to this litigation. If Mr.
 3 Morehouse or Ms. Morehouse-Sands, and any other persons occupying the subject
 4 properties, vacates the subject properties prior to the deadline set forth in paragraph 11,
 5 above, such person shall notify counsel for the United States no later than 2 business days
 6 prior to vacating the property of the date on which he or she is vacating the property.
 7 Notification shall be made by leaving a message for said counsel, Nathaniel B. Parker, at
 8 (202) 307-6547.

- 9 14. The Marshal, his or her representative, or a PALS representative, shall deposit the amount
 10 paid by the purchasers of the Amboy Tract into the registry of the court. Upon
 11 appropriate motion for disbursement or stipulation of the parties, the court will disburse
 12 the funds arising from the sale of the Amboy Tract in the following partial order of
 13 preference until these expenses and liens are satisfied:

PRIORITY	PAYEE	AMOUNT
First	Internal Revenue Service	In the amount of allowed costs and expenses of sale, including any commissions due under 28 U.S.C. § 1921(c) and including an amount sufficient to cover the costs of any steps taken to secure or maintain the subject property pending sale and confirmation by the Court
Second	Clark County	In the amount of any and all liens it may have on each Amboy Tract for unpaid real property taxes or special assessments at the time of the sale.
Third	United States	Fifty percent of the remaining proceeds after payment to the first and second priorities.

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1 2 3	Fourth Fifth	Cedar Creek Property Owners' Association Emma Morehouse-Sands	In the amount of its claimed lien. All remaining proceeds.
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4 15. The Marshal, his or her representative, or a PALS representative, shall deposit the amount
 5 paid by the purchasers of the Amboy Residence into the registry of the court. Upon
 6 appropriate motion for disbursement or stipulation of the parties, the court will disburse
 7 the funds arising from the sale of the Amboy Residence in the following partial order of
 8 preference until these expenses and liens are satisfied:

PRIORITY	PAYEE	AMOUNT
First	Internal Revenue Service	In the amount of allowed costs and expenses of sale, including any commissions due under 28 U.S.C. § 1921(c) and including an amount sufficient to cover the costs of any steps taken to secure or maintain the subject property pending sale and confirmation by the Court.
Second	Clark County	In the amount of any and all liens it may have on the Amboy Residence for unpaid real property taxes or special assessments at the time of the sale.
Third	Emma Morehouse-Sands	One-third of the remaining proceeds after payment to the first and second priorities.
Fourth	United States	All remaining proceeds

22 16. In the event that Ms. Emma Morehouse-Sands successfully bids for and purchases the
 23 Amboy Residence, upon appropriate motion for disbursement or stipulation of the parties,
 24 the court will disburse the funds arising from the sale of the Amboy Residence in the
 25 following partial order of preference until these expenses and liens are satisfied:

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PRIORITY	PAYEE	AMOUNT
First	Internal Revenue Service	In the amount of allowed costs and expenses of sale, including any commissions due under 28 U.S.C. § 1921(c) and including an amount sufficient to cover the costs of any steps taken to secure or maintain the subject property pending sale and confirmation by the Court.
Second	Clark County	In the amount of any and all liens it may have on the Amboy Residence for unpaid real property taxes or special assessments at the time of the sale.
Third	United States	Any remaining proceeds.

DATED this 13th day of October, 2009.



United States District Judge

Presented by:

JEFFREY C. SULLIVAN
United States Attorney, Western District of Washington
700 Stewart Street Suite 5220
Seattle, WA 98101-1271

/s/ Nathaniel B. Parker
NATHANIEL B. PARKER
Trial Attorney, Tax Division
U.S. Department of Justice

[PROPOSED] ORDER

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on July 15, 2009, I electronically filed the foregoing Proposed Order
3 electronically through the CM/ECF system, which caused the following parties to be served by electronic
means, as more fully reflected on the Notice of Electronic Filing:

4 Curt Wyrick, Attorney for Clark County
5 curt.wyrick@clark.wa.gov

6 James D. Case, Attorney for Glen Morehouse
jcase@case-dusterhoff.com

7 I further CERTIFY that service of the foregoing Proposed Order has been made by depositing true and
8 correct copies thereof in the United States mail, postage prepaid, addressed to:

9 Emma J. Morehouse
10 20816 NE 389th St
11 Amboy WA 98601

12 Cedar Creek Property Owners Association
13 c/o Richard F. Ryan
14 PO Box 221
15 18010 NE Neer Circle
16 Amboy, WA 98601

17 Dated this 15th day of July, 2009.

18 _____
19 /s/ Nathaniel B. Parker
20 Nathaniel B. Parker
21 Trial Attorney
22 U.S. Department of Justice

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